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**BOARD OF SUPERVISORS
ACTION ITEM
BOARD MEMBER INITIATIVE**

SUBJECT: VERIZON FRANCHISE AGREEMENT EVALUATION

ELECTION DISTRICT: COUNTYWIDE

CRITICAL ACTION DATE: NOVEMBER 7, 2012

STAFF CONTACT: Juanita Tool, Staff Aide to Vice Chairman Clarke

RECOMMENDATIONS: Vice Chairman Clarke recommends that the Board of Supervisors approve sending this item to the Communications Commission for evaluation.

BACKGROUND: As a follow up to the Broadband Communications Initiative Vice Chairman Clarke brought before the Board on March 6, 2012 and which the Board unanimously approved, Vice Chairman Clarke has found that the Verizon Cable Franchise agreement contains specific terms regarding broadband expansion in the “Extended Service Area”, which Verizon is required fulfill in 2013. Vice Chairman Clarke recommends that the Communications Commission evaluate Verizon’s plans for fulfilling the terms of the franchise agreement and to also provide Staff and the Board with relevant information regarding discussion of the renewal.

It is not clear what Verizon’s status is with regard to the specific requirements for said expansion rollout and whether or not they are meeting the requirements of the agreement. Verizon has not stated that they do not have plans to expand further into Loudoun County; however, they have sent the County a proprietary and confidential list of a large number of excluded addresses in Western Loudoun. These addresses are specifically excluded because Verizon has determined that they do not meet the density requirement as defined in section 3.1.1.1 of the Franchise Agreement.

It would be helpful for the Commission to take a look at these excluded addresses as well as the current and future development underway within the County to determine if these excluded addresses will meet the Franchise density requirements in the near future. The list of addresses they are excluding is extensive, so it is anticipated that they have determined that most of western Loudoun will be excluded in the expansion.

The requirements for the service by density are stated in the Franchise agreement in Subsection 3.1.1.1 as:

“Franchisee shall make Cable services available to residential dwelling units in all areas of the Service Area where the average density is equal to or greater than (30) occupied residential units per mile as measured in strand footage from the nearest technically feasible point on the active FTTP Network Trunk or feeder line; however, starting seven (7) years after the Effective Date, but no later than (10) years after the Effective Date, the Franchise shall make Cable Services available to residential dwelling units in all areas of the Service Area where a) Cable Service is being offered by the Franchisee in the territory of the Video Serving Office, b) at least fifty percent (50%) of the territory of the Video Serving Office has been built out, and c) the average density is equal to or greater than (20) occupied residential units per mile as measured in strand footage from the nearest technically feasible point on the active FTTP Network trunk or feeder line, and such density requirement will continue through the term of the Agreement. Should, through new construction, an area within the Initial Service Area or Extended Service Area meet the density requirements after the time stated for providing Cable Service as set forth in subsections 3.1.1 and 3.1.2 respectively, Franchisee shall provide Cable Service to such area within six (6) months of determining that the density requirements have been met.

Futhermore, the Franchise Agreement defines two service areas where Verizon will provide service. The “Initial Service Area” includes Arcola, Ashburn, Herndon, Leesburg, and Sterling Park. Verizon service started in the Initial Service Area in 2006. The “Extended Service Area” is defined as Bluemont, Dulles, Haymarket, Hillsboro, Lovettsville, Middleburg, Purcellville, Upperville, and Waterford. The Agreement states that service is supposed to start in the Extended Service Area in 2013, 7 years after the initial agreement (2006).

Subsection 3.1.2 Extended Service Area states:

Within seven (7) years following the Service Date, Franchisee shall begin offering Cable Service throughout the Extended Service Area, passing with the FTTP trunk and feeder system at least 80% of the total households in the Franchise Area in which the Franchisee has its telephone facilities, subject to statutory exclusions for telephone facilities, and subject to the conditions of Subsection 3.1.1 above and the other terms set forth herein.

Vice Chairman Clarke recommends sending this item to the Communications Commission for an evaluation of the Verizon Cable Franchise Agreement, Verizon's expansion plans, and information regarding future residential development in Loudoun County and to report their findings to the Board of Supervisors no later than February 2013.

ISSUES: If it is determined that the agreement specifications are not being fulfilled then the Agreement will need to be revisited with the Franchise as any lack of service fulfillment adversely affects the citizens of Loudoun County.

FISCAL IMPACT: None

DRAFT MOTION(S): I move to send the Verizon Cable Franchise Agreement and Verizon's plans for fulfilling the requirements contained in the Agreement to the County's Communications Commission for evaluation and for the Communications Commission to report their findings to the Board of Supervisors no later than February 2013.

ATTACHMENTS:

1. Verizon Cable Franchise Agreement
2. Map of Current Broadband Connectivity
3. BOS Action Item #12 from the June 20, 2006 BOS Meeting – Proposed Cable TV Franchise Agreement with Verizon Virginia, Inc.
4. May 7, 2012 - Letter to Verizon from Loudoun Regarding Service Areas
5. June 7, 2012 - Verizon Response to Loudoun Regarding Service Areas